

REMARKS

Claims 1, 5, and 10-15 are pending after entry of this paper. Claims 1, 5, and 12-14 have been rejected. Claim 1 have been objected to. Claims 2-4 and 6-9 have been previously cancelled and claims 10, 11, and 15 have been previously withdrawn from further consideration. Applicants reserve the right to pursue cancelled and/or withdrawn claims in a divisional or continuing application.

Claim 1 has been amended to delete sections (E) and (F) and to replace “No.” with “NO” in sections (B) to (D). Support may be found throughout the instant specification and claims as filed.

No new matter has been introduced by these amendments. Reconsideration and withdrawal of the pending rejections in view of the above claim amendments and below remarks are respectfully requested.

Response to Objections made to the Claims

Claim 1 has been objected to because of the use of the term “SEQ ID No.: 2.” The Patent Office suggested the use of the term “SEQ ID NO: 2” to overcome the instant objection. Applicants respectfully complied.

Claim 1 has been amended to replace the term “SEQ ID No.: 2” in (B)-(D) with the term “SEQ ID NO: 2.” Reconsideration and withdrawal of the pending objection to the Claims are respectfully requested.

Response to Rejections under 35 U.S.C. §112, first paragraph

Claims 1, 5 and 12-14 stand rejected under 35 U.S.C. §112, first paragraph for allegedly failing to comply with the written description requirement. Specifically, the Examiner

contends that the instant specification does sufficiently describe a genus of variants for the peptides that have one to five amino acids are deleted, substituted or added, or have at least 80% homology in the sequences. While the Examiner acknowledges that the application provides four functional variants, *i.e.*, 1-24, 1-20, 5-24, and 2-13, the Examiner still maintains that because the specification provides no structure-activity correlation for the variants, a skilled artisan cannot predict which variant or fragment is functional. (Office Action, pg. 5.) Therefore, the Examiner concludes that “a skilled artisan would not recognize [that] applicants were in possession of the claimed invention.” (Office Action; pg. 5.) Applicants respectfully disagree.

However, in order to expedite prosecution and without disclaimer of, or prejudice to, the subject matter recited therein, applicants have cancelled elements (E) and (F) of claim 1 directed to an amino acid sequence wherein one to five amino acids are deleted, substituted or added in the amino acid sequence shown by any one of (A) to (D), and an amino acid sequence having 80% or more homology with the amino acid sequence shown by any one of (A) to (D). In light of these claim amendments, applicants respectfully believe that the instant rejection is moot. Thus, applicants respectfully submit that the invention as recited in the claims as presented herein is allowable, and respectfully request that the respective rejections under 35 U.S.C. §112, first paragraph be withdrawn. However, in the event that a telephone conference would facilitate examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided. Favorable action by the Examiner is earnestly solicited.

Dependent Claims

The applicants have not independently addressed all of the rejections of the dependent claims. The applicants submit that for at least similar reasons as to why independent

claim(s) 1 from which all of the dependent claims 5 and 12-14 depend are believed allowable as discussed *supra*, the dependent claims are also allowable. The applicants however, reserve the right to address any individual rejections of the dependent claims and present independent bases for allowance for the dependent claims should such be necessary or appropriate.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. **50-4827**, Order No. 1004331.037US.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. **50-4827**, Order No. 1004331.037US.

Respectfully submitted,
Locke Lord Bissell & Liddell LLP

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By: /Serge Ilin-Schneider/
Serge Ilin-Schneider, Ph.D.
Registration No. 61,584

Correspondence Address:

Locke Lord Bissell & Liddell LLP
3 World Financial Center
New York, NY 10281-2101
(212) 415-8600 Telephone
(212) 303-2754 Facsimile